

EXHIBIT A

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15 Attorneys for Plaintiff and the Class

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF MONTEREY**

18 ROY PONCE, as an individual and on behalf of
19 all others similarly situated,

20 Plaintiff,

21 vs.

22 HOME DEPOT U.S.A., INC.; and DOES 1
23 through 10, inclusive,

24 Defendants.

Case No. 17CV000286

**CLASS ACTION COMPLAINT FOR
DAMAGES FOR:**

**(1) VIOLATION OF LABOR CODE §
203; AND**

**(2) VIOLATION OF LABOR CODE §
2698 ET SEQ.**

DEMAND FOR JURY TRIAL

1 Plaintiff Roy Ponce, as an individual and on behalf of all other similarly situated former
 2 employees of Defendants ("Plaintiff"), hereby submits this Class Action Complaint against
 3 Defendant Home Depot USA, Inc. and Does 1-10 (hereinafter collectively referred to as
 4 "DEFENDANTS"), as follows:

5 INTRODUCTION

6 1. This action is within the Court's jurisdiction under California Labor Code §§ 201-203
 7 and 2698.

8 2. This complaint challenges systemic illegal employment practices resulting in
 9 violations of the California Labor Code, and Government Code against employees of
 10 DEFENDANTS.

11 3. Plaintiff is informed and believe and based thereon alleges that DEFENDANTS, joint
 12 and severally have acted intentionally and with deliberate indifference and conscious disregard to
 13 the rights of all terminated employees in failing to pay final wages in a timely manner pursuant
 14 to the Labor Code.

15 4. Plaintiff is informed and believes and based thereon alleges DEFENDANTS have
 16 engaged in, among other things a system of willful violations of the California Labor Code,
 17 applicable IWC wage orders, and applicable California Code of Regulations by creating and
 18 maintaining policies, practices and customs that knowingly deny employees the above stated
 19 rights and benefits.

20 JURISDICTION AND VENUE

21 5. The Court has jurisdiction over the violations of the California Labor Code §§ 201-
 22 203, 2698. Further, this Court is the proper venue because Plaintiff worked at Defendant's store
 23 located in Salinas, California.

24 PARTIES

25 6. Plaintiff was employed by DEFENDANTS from in or around May 2013, until in or
 26 around June 2013, and then from on or about October 31, 2013, until on or about September 13,
 27 2016. Although Plaintiff was terminated on September 13, 2016, he did not receive his final
 28 regular wages until September 16, 2016. Furthermore, Plaintiff was not paid out for his unused

1 sick leave until September 30, 2016. Thus, Plaintiff was not paid all of his wages until
2 September 30, 2016. Plaintiff was a victim of the policies, practices and customs of
3 DEFENDANTS complained of in this action in ways that have deprived him of his rights
4 guaranteed to him by California Labor Code §§ 201-203, and 2698.

5 7. Plaintiff is informed and believes and based thereon alleges that DEFENDANTS
6 were and are corporations doing business in the State of California that operate retail stores
7 selling home improvement products and materials to the general public.

8 8. Plaintiff is informed and believes and based thereon alleges that at all times herein
9 mentioned DEFENDANTS and DOES 1 through 10, are and were corporations, business
10 entities, individuals, and partnerships, licensed to do business and actually doing business in the
11 State of California.

12 9. As such, and based upon all the facts and circumstances incident to
13 DEFENDANTS' business in California, DEFENDANTS are subject to California Labor Code
14 §§ 201-203 and 2698.

15 10. Plaintiff does not know the true names or capacities, whether individual, partner
16 or corporate, of the DEFENDANTS sued herein as DOES 1 through 10, inclusive, and for that
17 reason, said DEFENDANTS are sued under such fictitious names, and Plaintiff prays for leave to
18 amend this complaint when the true names and capacities are known. Plaintiff is informed and
19 believes and based thereon alleges that each of said fictitious DEFENDANTS were responsible
20 in some way for the matters alleged herein and proximately caused Plaintiff and members of the
21 general public and class to be subject to the illegal employment practices, wrongs and injuries
22 complained of herein.

23 11. At all times herein mentioned, each of said DEFENDANTS participated in the
24 doing of the acts hereinafter alleged to have been done by the named DEFENDANTS; and
25 furthermore, the DEFENDANTS, and each of them, were the agents, servants and employees of
26 each of the other DEFENDANTS, as well as the agents of all DEFENDANTS, and at all times
27 herein mentioned, were acting within the course and scope of said agency and employment.
28

1 12. Plaintiff is informed and believes and based thereon alleges that at all times
 2 material hereto, each of the DEFENDANTS named herein was the agent, employee, alter ego
 3 and/or joint venturer of, or working in concert with each of the other co-DEFENDANTS and was
 4 acting within the course and scope of such agency, employment, joint venture, or concerted
 5 activity. To the extent said acts, conduct, and omissions were perpetrated by certain
 6 DEFENDANTS, each of the remaining DEFENDANTS confirmed and ratified said acts,
 7 conduct, and omissions of the acting DEFENDANTS.

8 13. At all times herein mentioned, DEFENDANTS, and each of them, were members
 9 of, and engaged in, a joint venture, partnership and common enterprise, and acting within the
 10 course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

11 14. At all times herein mentioned, the acts and omissions of various DEFENDANTS,
 12 and each of them, concurred and contributed to the various acts and omissions of each and all of
 13 the other DEFENDANTS in proximately causing the injuries and damages as herein alleged. At
 14 all times herein mentioned, DEFENDANTS, and each of them, ratified each and every act or
 15 omission complained of herein. At all times herein mentioned, the DEFENDANTS, and each of
 16 them, aided and abetted the acts and omissions of each and all of the other DEFENDANTS in
 17 proximately causing the damages as herein alleged.

18 CLASS ACTION ALLEGATIONS

19 15. **Definition:** Plaintiff brings this action on behalf of himself and the class pursuant
 20 to California Code of Civil Procedure Section 382. The Class consists of all individuals who
 21 worked for DEFENDANTS in the State of California in one or more of DEFENDANTS' retail
 22 stores and who was terminated by DEFENDANTS at any time between September 26, 2014,
 23 through the present (the "203 Class"). Plaintiff will further seek a sub-class of "all individuals
 24 who worked for DEFENDANTS in the State of California in one or more of DEFENDANTS'
 25 retail stores and who was terminated by DEFENDANTS at any time between September 26,
 26 2014, through the present and who was paid any wages after his/her employment termination
 27 date" (the "203 Sub-Class") (the 203 Class, 203 Sub-Class shall hereinafter collectively be
 28 referred to as the "Class Members").

1 **16. Numerosity:** The members of the Class are so numerous that joinder of all
 2 members would be impractical, if not impossible. The identity of the members of the class is
 3 readily ascertainable by review of DEFENDANTS' records, including payroll records. Plaintiff
 4 is informed and believes and based thereon alleges that DEFENDANTS failed to pay to Plaintiff
 5 and the 203 Class and 203 Sub-Class Members all final wages in a timely manner.

6 **17. Adequacy of Representation:** The named Plaintiff is fully prepared to take all
 7 necessary steps to represent fairly and adequately the interests of the class defined above.
 8 Plaintiff's attorneys are ready, willing and able to fully and adequately represent Plaintiff and the
 9 class. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past
 10 and currently have a number of wage-and-hour class actions pending.

11 **18.** DEFENDANTS uniformly administered a corporate policy, practice, and
 12 procedure of failing to pay to Plaintiff and the 203 Class and 203 Sub-Class Members all final
 13 wages in a timely manner.

14 **19.** Plaintiff is informed and believes and based thereon alleges this corporate conduct
 15 was accomplished with advanced knowledge, intent, and willfulness.

16 **20.** Plaintiff is informed and believes and based thereon alleges DEFENDANTS had
 17 a consistent and uniform policy, practice and procedure of willfully failing to comply with Labor
 18 Code §§ 201-203.

19 **21. Common Question of Law and Fact:** There are predominant common questions
 20 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
 21 concerning DEFENDANTS' failing to pay Plaintiff and the 203 Class and 203 Sub-Class
 22 Members all final wages in a timely manner.

23 **22. Typicality:** Plaintiff's claims are typical of the claims of all members of the
 24 class. As alleged above, Plaintiff was terminated by DEFENDANTS on or about September 13,
 25 2016. Nevertheless, Plaintiff did not receive all of his final pay until September 16, 2016.
 26 Therefore, Plaintiff is a member of the Class and, as alleged herein, has suffered violations of
 27 California Labor Code §§ 201-203.
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1 23. The California Labor Code upon which Plaintiff bases his claims are broadly
2 remedial in nature. These laws and labor standards serve an important public interest in
3 establishing minimum working conditions and standards. These laws and labor standards protect
4 the average working employee from exploitation by employers who may seek to take advantage
5 of superior economic and bargaining power in setting onerous terms and conditions of
6 employment.

7 24. The nature of this action and the format of laws available to Plaintiff and
8 members of the Class identified herein make the class action format a particularly efficient and
9 appropriate procedure to redress the wrongs alleged herein. If each employee and common law
10 employee were required to file an individual lawsuit, the corporate DEFENDANTS would
11 necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm
12 the limited resources of each individual plaintiff with their vastly superior financial and legal
13 resources. Requiring each class member to pursue an individual remedy would also discourage
14 the assertion of lawful claims by employees who would be disinclined to file an action against
15 their former and/or current employer for real and justifiable fear of retaliation and permanent
16 damage to their careers at subsequent employment.

17 25. The prosecution of separate actions by the individual class members, even if
18 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
19 to individual class members against the DEFENDANTS and which would establish potentially
20 incompatible standards of conduct for the DEFENDANTS, and/or (b) adjudications with respect
21 to individual class members which would, as a practical matter, be dispositive of the interest of
22 the other class members not parties to the adjudications or which would substantially impair or
23 impede the ability of the class members to protect their interests. Further, the claims of the
24 individual members of the class are not sufficiently large to warrant vigorous individual
25 prosecution considering all of the concomitant costs and expenses.

26 26. Such a pattern, practice and uniform administration of corporate policy regarding
27 illegal employee compensation described herein is unlawful and creates an entitlement to
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1 recovery by the Plaintiff and the Class identified herein, in a civil action, for the applicable
2 penalties, reasonable attorney's fees, and costs of suit.

3 27. Proof of a common business practice or factual pattern, which the named Plaintiff
4 experienced and are representatives of, will establish the right of each of the members of the
5 Plaintiff class to recovery on the causes of action alleged herein.

6 28. The Plaintiff Class is commonly entitled to a specific fund with respect to the
7 compensation illegally and unfairly retained by DEFENDANTS. The Plaintiff Class is
8 commonly entitled to restitution of those funds being improperly withheld by DEFENDANTS.
9 This action is brought for the benefit of the entire Class and will result in the creation of a
10 common fund.

11 **FIRST CAUSE OF ACTION**

12 **VIOLATION OF LABOR CODE § 203**

13 **(AGAINST ALL DEFENDANTS BY PLAINTIFF AND THE**
14 **203 CLASS AND 203 SUB-CLASS)**

15 29. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 28 as
16 though fully set for herein.

17 30. Although Plaintiff was terminated on September 13, 2016, he did not receive his
18 final regular wages until September 16, 2016. Furthermore, Plaintiff was not paid out for his
19 unused sick leave until September 30, 2016. Thus, Plaintiff was not paid all of his wages until
20 September 30, 2016. At all times relevant herein, Defendants were required to pay their
21 employees all wages owed in a timely fashion at the end of employment pursuant to California
22 Labor Code §§ 201 to 203.

23 31. As a pattern and practice, Defendants regularly failed to pay Plaintiff and class
24 members their final wages pursuant to Labor Code §§ 201 to 203 and accordingly owe waiting
25 time penalties pursuant to Labor Code § 203.

26 32. The conduct of Defendants and their agents and employees as described herein
27 was willfully done in violation of Plaintiff and class members' rights, and done by managerial
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1 employees of Defendants.

2 33. Plaintiff is informed and believes and based thereon alleges Defendants' willful
3 failure to pay wages earned, including minimum wages, due and owing them upon separation
4 from employment results in a continued payment of wages up to thirty (30) days from the time
5 the wages were due. Therefore, Plaintiff and class members who have separated from
6 employment are entitled to compensation pursuant to Labor Code § 203.

7 **SECOND CAUSE OF ACTION**

8 **FOR VIOLATIONS OF CALIFORNIA LABOR CODE § 2698 ET SEQ.**

9 **(AGAINST ALL DEFENDANTS BY PLAINTIFF)**

10 34. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 34 as
11 though fully set for herein.

12 35. Plaintiff brings this cause of action as a proxy for the State of California pursuant
13 to the Private Attorney Generals Act (the "PAGA"), California Labor Code § 2698, *et seq.*
14 Plaintiff is an aggrieved employee, as he suffered the violations of Labor Code § 203, as he was
15 terminated on September 13, 2016, but did not receive his final pay until September 16, 2016.

16 36. Defendant committed the following violations of the California Labor Code
17 against Plaintiff and other aggrieved employees while they were employed by defendant.

18 37. Defendant has failed to comply with Labor Code § 201 in that the employer has
19 failed to pay the aggrieved employees all unpaid wages at the time of discharge.

20 38. The above described conduct is in violation of Labor Code §§ 201, 203 and the
21 applicable California Industrial Welfare Commission Wage Order.

22 39. Pursuant to Labor Code Section 2699 *et. seq.*, on November 15, 2016, Plaintiff
23 gave written notice by certified mail to defendant and the Labor and Work Force Development
24 Agency (the "LWDA") of the factual and legal basis for the labor law violations alleged in this
25 complaint. As of the date of this filing, the LWDA has not informed Plaintiff whether it intends
26 to investigate the matter. Therefore, Plaintiff may seek civil penalties pursuant to the PAGA.

27 40. Pursuant to Labor Code Section 2699(a), Plaintiff seeks to recover civil penalties
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1 for which defendant is liable as a result of their violations of the following Labor Code as
 2 described above. Plaintiff seeks penalties pursuant to Labor Code Section 2699 in amounts to be
 3 proven at trial.

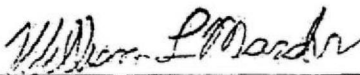
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment individually and on behalf of all others on
 6 whose behalf this suit is brought against Defendants, jointly and severally, as follows:

- 7 1. For an order certifying the proposed Class and all subclasses;
- 8 2. For an order appointing him as the representative of the Class and/or any subclasses;
- 9 3. For an order appointing Counsel for Plaintiff as Class counsel;
- 10 4. Pursuant to Labor Code §203, for an additional sum according to proof equal to up to
 11 thirty (30) days wages, as a penalty for unpaid wages for severed employees;
- 12 5. For interest on all unpaid wages from the date such sums were due to the date of
 13 judgment hereof;
- 14 6. For penalties pursuant to Labor Code Section 2699 *et seq.*;
- 15 7. For reasonable attorneys' fees and costs pursuant to Labor Code Sections 218.5 and
 16 2699(g)(1).
- 17 8. For prejudgment and post-judgment interest according to any applicable provision of
 18 law, according to law, according to proof;
- 19 9. For such other and further relief as the court may deem proper.

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 21 Dated: January 23, 2017

POLARIS LAW GROUP LLP

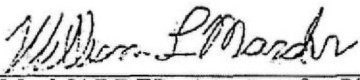
22
 23 By 
 24 WILLIAM L. MARDER, Attorney for Plaintiff and
 the Class

25 **DEMAND FOR JURY TRIAL**

26 Plaintiff, individually and on behalf of the class, hereby demands a jury trial.
 27
 28

1 Dated: January 23, 2017

POLARIS LAW GROUP LLP

2
3 By 
4 WILLIAM L. MARDER, Attorney for Plaintiff and
the Class
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SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Home Depot U.S.A.; and DOES 1 through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Roy Ponce, as an individual and on behalf of all others similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 1/23/2017 10:05:57 AM
By: Christina Uribe, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY
1200 Aguajito Road, Monterey, CA 93940CASE NUMBER:
(Número del Caso):

17CV000286

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

William L. Marder, Esq. (Bar # 170131)

Polaris Law Group, LLP

501 San Benito Street, Suite 200, Hollister, CA 95023

DATE:

(Fecha) 1/23/2017

TERESA A. RISI

Fax No.: (831) 634-0333
Phone No.: (831) 531-4214

Clerk, by

(Secretario) /s/ Christina Uribe

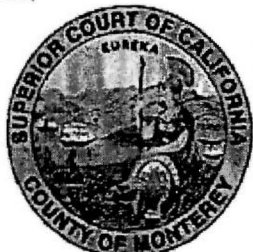
Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)



NOTICÉ TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Home Depot U.S.A., Inc.
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

Page 1 of 1

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William L. Marder, Esq. (Bar # 170131) Polaris Law Group, LLP 501 San Benito Street, Suite 200 Hollister, CA 95023 TELEPHONE NO.: (831) 531-4214 FAX NO.: (831) 634-0333 ATTORNEY FOR (Name): Roy Ponce, Plaintiff		FOR COURT USE ONLY ELECTRONICALLY FILED BY Superior Court of California, County of Monterey On 1/23/2017 10:05:57 AM By: Christina Uribe, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY STREET ADDRESS: 1200 Aguajito Road MAILING ADDRESS: 1200 Aguajito Road CITY AND ZIP CODE: Monterey 93940 BRANCH NAME:		CASE NUMBER: 17CV000286 JUDGE: DEPT:
CASE NAME: Roy Ponce v. Home Depot U.S.A., Inc.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): TWO (2)
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 23, 2017

William L. Marder, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF MONTEREY COUNTY Monterey Branch, 1200 Aguajito Road, Monterey, CA 93940	
Roy Ponce vs. Home Depot U.S.A., Inc.	CASE NUMBER 17CV000286
	Case Management Conference

NOTICE OF ASSIGNMENT AND CASE MANAGEMENT CONFERENCE

Your case number ending EVEN is assigned for all purposes to the Hon. Thomas W. Wills

Your case number ending ODD is assigned for all purposes to the Hon. Susan J. Matcham

This notice and Alternative Dispute Resolution (ADR) information packet must be served together with the Summons and Complaint pursuant to California Rule of Court 3.221. *Parties are required to follow the case management rules as outlined in California Rule of Court 3.722 and Chapter 6 of the Local Rules of Court found on the court website at www.montereycourt.ca.gov.* A case management statement from each party or joint statement shall be filed prior to the conference as outlined in California Rule of Court 3.725.

Date: May 23, 2017 Time: 9:00 AM Department 14

Location: Monterey Courthouse, 1200 AGUAJITO ROAD, MONTEREY, CA 93940

Pursuant to statutes of the State of California, it is the responsibility of the court to establish procedures for the timely and effective disposition of civil cases.

The court is charged with the responsibility of ensuring all parties a fair and timely resolution of their disputes, and the court is in the best position to establish neutral rules and policies without adversely affecting all parties' right to a fair trial. Effective management of the judicial system will build continuing respect by the community of government, minimize the costs to the parties and the public, and maximize the probability that cases will be timely resolved.

The goals of the Monterey County civil case and trial management system are:

1. To provide an effective and fair procedure for the timely disposition of civil cases;
2. To provide a mechanism to gather needed case information in order to make appropriate judicial management decisions; and
3. To establish reasonable rules and policies to require that cases reporting "ready" for trial may be tried without unnecessary delays or interruptions.

Attorney or Party without Attorney: WILLIAM L. MARDER, SBN 170131 POLARIS LAW GROUP LLP 501 SAN BENITO STREET SUITE 200 HOLLISTER, CA 95023 Telephone No: 831-531-4214 FAX No: 831-634-0333		For Court Use Only ELECTRONICALLY FILED BY Superior Court of California, County of Monterey On 1/25/2017 4:40:58 PM By: Mariela Hernandez, Deputy	
Attorney for: Plaintiff		Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: SUPERIOR COURT OF CALIFORNIA COUNTY OF MONTEREY			
Plaintiff: ROY PONCE, as an individual and on behalf of all others similarly situated Defendant: HOME DEPOT U.S.A., INC.			
PROOF OF SERVICE SUMMONS		Hearing Date:	Time:
		Dept/Div:	Case Number: 17CV000286

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF ASSIGNMENT AND CASE MANAGEMENT CONFERENCE
3. a. Party served: Home Depot U.S.A., Inc.
b. Person served: BECKY DEGEORGE, CSC LAWYERS INCORPORATING SERVICE, REGISTERED AGENT.
4. Address where the party was served: 2710 GATEWAY OAKS DRIVE
SUITE 150N
SACRAMENTO, CA 95833
5. I served the party:
a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Tue., Jan. 24, 2017 (2) at: 10:30AM
6. The "Notice to the Person Served" (on the Summons) was completed as follows:
on behalf of: Home Depot U.S.A., Inc.
Under CCP 416.10 (corporation)

7. Person Who Served Papers:

a. Michael Morris

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. The Fee for Service was:



1814 "I" Street
Sacramento, CA 95814
Telephone (916) 444-5111
Fax (916) 443-3111
www.firstlegallnetwork.com

- e. I am: (3) registered California process server
- (i) Independent Contractor
 - (ii) Registration No.: 2012-33
 - (iii) County: Sacramento

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Wed, Jan. 25, 2017

(Michael Morris)
9045377.r.r.pottaw 869013